

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

RICK WOODS, ET AL.,  
Plaintiffs,  
v.  
GOOGLE LLC,  
Defendant.

Case No. [11-cv-01263-EJD](#) (VKD)

**ORDER RE OCTOBER 30, 2018 JOINT  
DISCOVERY DISPUTE LETTER RE  
CLICK DATA**

Re: Dkt. No. 407

Plaintiff Rene Cabrera moves to compel defendant Google LLC to produce the data called for in Mr. Cabrera's Eighth, Ninth, and Tenth Requests for Production of Documents to Google. The parties report that they have conferred further since submission of their joint discovery dispute letter on October 30, 2018, and that Google has made a further production of data. Both parties have filed additional submissions with the Court. Dkt. Nos. 420, 423, 425-3.

Based on the record before the Court, it appears that Google has complied with its obligation to produce data responsive to these requests.

**I. BACKGROUND**

On behalf of a putative class, Mr. Cabrera asserts claims against Google for breach of contract and unfair business practices relating to Google's AdWords advertising program. In discovery, Mr. Cabrera requested the following information from Google:

1. (i) "the click data for Cabrera's AdWords account . . . in the same format as the click data sets produced by Google on October 30, 2017 and the data for Plaintiff Rick Woods produced by Google on November 22, 2017 (i.e. containing the data fields described in Eric B. Evans' February 6, 2018 letter to Matthew L. Mustokoff); (ii) all data contained in Google's Log Files associated with each click identified in subpart (i)

1 above including, without limitation, all data associated with the click, query,  
2 impression, conversion, and refund, as applicable, for each such click” (Eighth Set of  
3 Requests for Production);

4 2. “Cabrera’s change history log for his Google AdWords accounts and any other  
5 documents that show any access or changes made to . . . Cabrera’s AdWords accounts”  
6 (Ninth Set of Requests for Production); and

7 3. “all Smart Pricing multipliers for the Property from which the click occurred at the  
8 time of the click including, without limitation, ClickCost Multiplier, RawBid  
9 Multiplier, ProductionBidMultiplier and Manual Bid Multiplier” (Tenth Set of  
10 Requests for Production).

11 Dkt. No. 407. The presiding judge set a deadline of October 15, 2018 for Google to produce this  
12 data. Dkt. No. 384.

13 Mr. Cabrera says that Google produced data on October 15, 2018 but that the data was  
14 incomplete. Google does not dispute it had an obligation to produce the data called for in Mr.  
15 Cabrera’s document requests. It contends its production is complete.

16 **II. DISCUSSION**

17 The Court held a hearing on this motion on November 2, 2018. At the Court’s direction,  
18 the parties conferred regarding Google’s production of data, and the parties recited a tentative  
19 resolution of the dispute on the record. The Court ordered Google’s counsel to file a declaration  
20 confirming that the production was complete by November 5, 2018. Dkt. No. 417.

21 Following the hearing, Google apparently produced a spreadsheet of “Smart Pricing  
22 Multipliers” for Mr. Cabrera’s account. On November 5, 2018, Eric Evans, counsel for Google,  
23 filed a declaration stating in relevant part: “In compliance with the Court’s Order, I certify that to  
24 the best of my current understanding, knowledge, information, and belief, and also based on recent  
25 discussions with Google personnel, Google’s production of Cabrera click data is complete,  
26 consistent with Mr. Cabrera’s counsel’s recitation on the record during the hearing.” Dkt. No. 420

27 ¶ 3.

28 On November 7, 2018, Mr. Cabrera filed a separate letter with Court objecting to Mr.

1 Evans's declaration as failing to satisfy Google's obligations or the Court's requirements and  
2 arguing that the dispute concerning this discovery remained unresolved. Dkt. No. 423. On  
3 November 8, 2018, Google responded with its own separate letter and a declaration from Ian  
4 Harrower, a Google Engineering Manager.<sup>1</sup> Dkt. Nos. 425-3, 425-5. In Google's separate letter,  
5 it clarifies that Mr. Evans's declaration was based, in part, on a conference with Mr. Harrower.  
6 Google and Mr. Harrower also assert that no data for "PubScores" or "PropertyHealth" exist  
7 separate and apart from the data for Smart Pricing Multipliers that Google has already produced.  
8 Dkt. Nos. 425-3, 425-5.

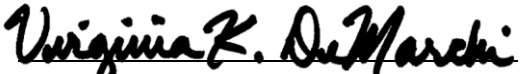
9 Google has now made several representations to the Court and to Mr. Cabrera—Mr.  
10 Evans's declaration, Mr. Harrower's declaration, and the November 8, 2018 letter—all affirming  
11 that the production of data due on October 15, 2018 is complete. In view of Google's explanation  
12 of the data it has provided, and in the absence of evidence to the contrary, the Court credits these  
13 representations.

14 **III. CONCLUSION**

15 The Court denies Mr. Cabrera's motion to compel as moot.

16 **IT IS SO ORDERED.**

17 Dated: November 9, 2018

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20 VIRGINIA K. DEMARCHI  
21 United States Magistrate Judge  
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28 <sup>1</sup> Google also filed a 303-page deposition transcript, which the Court has not considered.